

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8774 of 1995

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

SARAL MITRA SHARMA

Versus

STATE OF GUJARAT

Appearance:

MR IS SUPEHIA for Petitioner

Mr. N.D.Gohil, Asstt. GP for Respondent No. 1

SERVED for Respondent No. 2

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 20/06/97

ORAL JUDGEMENT

Petitioner herein is a retired Government servant who served the Government as a Professor in Government Ayurvedic College from 17th June, 1969 till 31st October, 1990 i.e. the date of his superannuation from service. The petitioner claims that at the time of retirement from service, his pay was fixed in the scale of Rs.

2200-4000. It is the claim of the petitioner that in view of the Government resolution dated 14th September, 1988, he is entitled to senior scale on completion of 8 years' service as a professor and selection grade on completion of 16 years' service as a professor. He further claims that while considering the period of his service, services rendered by him as professor in non-government institutions prior to 1969 also shall be counted. He relies upon the Government resolution dated 14th December, 1990 [annexure-C to the petition].

2. Said resolution dated 14th December, 1990 provides that for the purpose of counting qualifying service, experience of a person before appointment as Lecturer in the University or College, in equivalent grade in other university/college/(GSIR/ICAR/BRDO/UGC etc.) and UGC Research Scientists be counted as qualifying service for placement in the Senior Scale/Selection Grade irrespective of any break. The petitioner has contended that prior to his joining Government service in the year 1969, he was serving as a professor in Maharshi Dayanand Shuddh Ayurvedic Mahavidyalaya from 1st November, 1963 to 15th July, 1968 and in Gujarat Ayurvedic Vikas Mandal from 23rd July, 1968 to 16th June, 1969. Said period is required to be considered as qualifying service for the purpose of grant of Senior Scale / Selection Grade. The petitioner has made several representations in this regard to the Government which have not been responded to.

3. The Government has not filed any affidavit in reply contesting the claim made by the petitioner in this petition. However, several questions remain unanswered. The question whether the petitioner was at all entitled to Senior Scale/Selection Grade can be decided only on considering the Government resolution dated 14th September, 1988 which has not been produced on the records of the matter. Besides, even for counting the petitioner's earlier service as a qualifying service, the question would still remain whether the post held by the petitioner was in equivalent grade or not. Thus, it is not clear whether the petitioner complies with the conditions for claiming the benefit of Senior Scale/Selection Grade. Same can be decided only after considering all the relevant facts and all the resolutions and the notifications issued by the Government in this behalf. In the circumstances, it should be expedient that the representation made by the petitioner is decided by the Government after considering all the relevant material. Learned advocate appearing for the petitioner states that the petitioner shall make

further representation to respondent No. 1 in the subject matter of this petition. He further states that the petitioner shall make such a representation within a period of four weeks from today.

4. It is, therefore, directed that the respondent No. 1 shall consider the representation that may be made by the petitioner herein within a period of 12 weeks from the date of receipt of the representation. The petitioner may also be afforded an opportunity of personal hearing if he so desires. It is further directed that in the event the petitioner's representation is rejected, same shall be supported by a speaking order. The decision taken as aforesaid shall be communicated to the petitioner as soon as possible. In the event petitioner's representation is rejected, the petitioner shall have a liberty to challenge the same before the appropriate forum in accordance with law. Petition is allowed to the aforesaid extent. Rule is made absolute accordingly. Respondent No. 1 shall bear costs of this petition.

*Vyas